

AMENDED IN ASSEMBLY JUNE 10, 2004

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE APRIL 30, 2003

SENATE BILL

No. 996

Introduced by Senator Alarcon

February 21, 2003

~~An act to add Section 157 to the Labor Code, relating to employment.~~
An act to add Title 6 (commencing with Section 35400) to the Corporations Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 996, as amended, Alarcon. ~~Living wage~~ *Socially responsible business.*

Existing law establishes various regulations applicable to business entities, including, among others, corporations and partnerships.

This bill would declare the intent of the Legislature to create 2 categories of business, which would be known as the "California transparent enterprise" and the "California socially responsible business," and to encourage businesses to become socially responsible. The bill would qualify a business as a "California transparent enterprise" if it makes certain information publicly available, including environmental, health, safety, community development, and diversity information, and provides certain information and filing fees to the Secretary of State. The bill would also qualify a business as a "California socially responsible business" if it meets certain requirements, including satisfying specified employment, environmental, community involvement, and financial practices, and provides documents and filing fees to the Secretary of State.

~~Under existing law, the Industrial Welfare Commission establishes minimum wage requirements and its Division of Labor Statistics and Research compiles research relating to the condition of labor in the state.~~

~~This bill would provide that it is the Legislature's intent that when funds become available, the division would annually update its 2002 study titled "Living Wages: The Issues and the Impact," with certain requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

~~SECTION 1. The Legislature finds and declares as follows:~~

SECTION 1. The Legislature finds and declares all of the following:

(a) It serves a public purpose, and is in the best interest of the state, to recognize and encourage business practices that honor, respect, and safeguard the environment, human rights, public health and safety, the welfare of the communities of which the businesses are a part, and the well-being of the businesses' employees.

(b) Socially responsible businesses, as defined in this section, serve the State of California by helping to protect the environment, increase the quality of their employees' lives, and enrich the communities in which they do business, thereby minimizing the costs to the state to advance these ends.

(c) Ultimately, socially responsible businesses create wealth for the State of California by doing business in a manner that preserves the state's natural and societal resources for use by future generations, recognizing that these resources will contribute to the long-term prosperity of both the business itself and the state. They further avoid imposing additional costs onto society or a sector of society that the state would ultimately have to bear in full or in part.

(d) Socially responsible business practices can give companies competitive advantages, strengthening their potential for long-term profitability by building strong reputations and brand images, attracting superior talent, reducing turnover, increasing customer loyalty, reducing costs and avoiding future liabilities.

(e) A number of companies screened for socially responsible business practices have been shown to yield stronger financial performance, outperforming industry benchmarks in mutual funds and securities indexes. Research indicates that, given a choice between comparable products or services from a socially responsible company and one that is not, consumers consistently choose those from the socially responsible company.

(f) Nationally and internationally, the notion is growing that socially responsible business practices are indispensable in building sustainable enterprises. Within the United States of America, more than 2 trillion dollars are currently invested in socially responsible investments, major graduate business schools nationwide now offer courses in social responsibility, and thousands of companies are adopting socially responsible business practices to enhance their long-term profitability.

(g) The worldwide growth of socially responsible investing has prompted institutional investors, including public and private pension funds, which are among the largest investors in the world, to be increasingly aware of the social and environmental records of companies in which they invest. Several nations have mandated that pension funds publicly state if they take social and environmental considerations into account. A socially responsible business designation can facilitate the investment processes of those pension funds and other institutional investors that take such factors into consideration.

(h) Hundreds of businesses worldwide have signed onto the United Nations Global Compact, pledging good global citizenship in the areas of human rights, labor standards, and environmental protection. Similarly, hundreds of businesses around the world now make use of the Global Reporting Initiative's guidelines in their social and environmental reporting.

(i) It is the intent of the Legislature to create two new categories of business known as the "California transparent enterprise" and the 'California socially responsible business' in order to encourage businesses to become socially responsible.

SEC. 2. Title 6 (commencing with Section 35400) is added to the Corporations Code, to read:

TITLE 6. BUSINESS ETHICS

CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS

35400. “California transparent enterprise” means any California company that agrees to publicly disclose its policies and practices pertaining to its employee relations, environmental protection, customer and community relations, human rights, diversity and equality, particularly those practices that have a substantive impact on a sector of society or on stakeholder group as defined in this section.

35401. “California socially responsible business” means any California transparent enterprise that operates its business in a manner that respects and honors its employees, the environment, its communities, customers, shareholders and the public health and safety, earns profits in a manner that benefits society while minimizing costs to the public and damage to society, a sector of society, or the environment, and seeks to preserve and renew resources, including natural resources, so that those resources are available for future generations.

35402. “Fair trade” means foreign trade that provides socially acceptable remuneration to producers and workers with conditions that are safe, environmentally sustainable, and fair.

35403. “Self-sufficiency wage” means a wage with which a full time employee can cover the costs of adequate food, housing, and healthcare in the community where the job is located, without needing to supplement the wage with additional jobs or government programs.

CHAPTER 2. CALIFORNIA SOCIALLY RESPONSIBLE BUSINESS

35420. In order to qualify as a California transparent enterprise, the disclosures specified in Section 35400 shall be made in writing and provided to the Secretary of State along with a filing fee that may be required by the Secretary of State. The disclosures shall also be set forth on the disclosing company’s Web site, if it has one, and through other means according to its own initiative.

35421. A business shall qualify as a California socially responsible business if it meets the requirements of this chapter,

1 *and files any documents and filing fees that may be required by the*
2 *Secretary of State.*

3 *35422. Directors, officers, partners, and owners of a*
4 *California socially responsible business shall agree to conduct*
5 *business in a manner that considers both the impact on the*
6 *business and on the employees, the environment, the community or*
7 *communities where it does business, other stakeholders, and its*
8 *shareholders.*

9 *35423. A business shall at a minimum meet the following*
10 *criteria in order to qualify as a California socially responsible*
11 *business:*

12 *(a) Be in compliance with federal and state laws designed to*
13 *protect employees, the environment, consumers, and public health.*

14 *(b) Have corrected within 90 days any violations of state,*
15 *federal, or local laws designed to protect employees, the*
16 *environment, consumers, and public health that occurred within*
17 *the past five years.*

18 *35424. A business may not qualify as a California socially*
19 *responsible business if it does any of the following:*

20 *(a) Manufactures weapons, tobacco products, known*
21 *carcinogens or hazardous materials, as identified by state or*
22 *federal environmental or public health agencies, or gains more*
23 *than five percent of its revenue from a business related to those*
24 *activities.*

25 *(b) Is directly engaged in the business of gambling or nuclear*
26 *power or gains more than five percent of its revenue from a*
27 *business related to those activities.*

28 *(c) Engages in any business practices that recklessly or*
29 *willfully endangers human or ecological health or the economic*
30 *well-being of society or a sector of society.*

31 *(d) Has paid fines or penalties in excess of five thousand dollars*
32 *(\$5,000) in the past five years for violations of state or federal laws*
33 *or regulations designed to advance workforce diversity, prevent*
34 *discrimination, or protect labor, human health and safety, and the*
35 *environment.*

36 *(e) Has its products manufactured by forced labor, sweatshop*
37 *labor, or other abusive forms of child labor, as defined in*
38 *paragraph (2) of subdivision (e) of Section 6108 of the Public*
39 *Contract Code.*

1 35425. A business with more than 20 employees shall pay a
2 self-sufficiency wage to at least 75 percent of its full-time
3 employees to qualify as a California socially responsible business.

4 35426. A business with 20 or more employees shall qualify as
5 a California socially responsible business if it satisfies the
6 following:

7 (a) The business satisfies at least two of the following
8 employment practices:

9 (1) It makes available to at least 75 percent of all its employees
10 who work at 30 hours or more per week the option to receive or buy
11 into a comprehensive health care package and pays at least 50
12 percent of its cost.

13 (2) It actively works to achieve diversity and nondiscrimination
14 in its workplace and incorporates policies and practices that are
15 respectful of all people, regardless of gender, ethnicity, or sexual
16 orientation. The policies are incorporated into its employee
17 manual and posted in a visible place. Diversity in the business'
18 staff positions shall be easily verifiable.

19 (3) It makes available to at least 75 percent of all its employees
20 who work 30 hours or more per week the option to receive or buy
21 into a retirement benefits package that includes a 401(k) or a
22 SIMPLE IRA plan and contributes at least 2 percent of each
23 employee's annual wages toward the plan.

24 (b) The business satisfies at least six of the following
25 environmental protection practices:

26 (1) It has adopted globally recognized environmental best
27 practices or their equivalent with a goal of achieving
28 sustainability and zero pollution.

29 (2) It actively works to reduce solid waste by, at minimum,
30 recycling at least 75 percent of its nonusable solid waste by using
31 recycled materials whenever available, and by actively employing
32 other methodologies to reduce solid waste.

33 (3) It has worked with its local utility and water companies or
34 agencies to monitor energy and water consumption and has taken
35 and continues to take necessary actions to reduce energy
36 consumption to lowest possible levels using improved energy and
37 water efficiency and use of renewable energy sources.

38 (4) It has registered with the California Climate Action
39 Registry.

1 (5) *It does not promote products that are hazardous materials*
2 *or known to be teratogenic, mutagenic, carcinogenic, or otherwise*
3 *harmful in direct and obvious ways to human and ecological*
4 *health, such as asbestos, benzene, vinyl chloride, antimony*
5 *trioxide, and chromium.*

6 (6) *It has replaced the use of toxic agents such as cleaning*
7 *agents with nontoxic and biodegradable agents.*

8 (7) *It goes beyond compliance with both federal and state*
9 *guidelines with regards to mitigating the potentially harmful*
10 *effects of any of its products or services and in disposing of*
11 *hazardous waste.*

12 (8) *It actively encourages and provides incentives to its*
13 *employees to rideshare, carpool, use public transportation, or*
14 *telecommute.*

15 (c) *The business satisfies at least one of the following*
16 *community involvement practices:*

17 (1) *It allows and encourages its employees to engage in*
18 *community service on company time.*

19 (2) *It contributes at least one percent of its pretax net profit to*
20 *one or more nonprofit organizations incorporated under*
21 *paragraph (3) of subdivision (c) of Section 501 of the Internal*
22 *Revenue Code.*

23 (d) *The business satisfies at least one of the following financial*
24 *practices:*

25 (1) *It encourages worker involvement by sharing financial*
26 *information with employees or providing for employee*
27 *participation in management decision-making.*

28 (2) *It enables employees to share in the company's profits either*
29 *through an employee profit-sharing program in which a majority*
30 *of its employees are included or through an Employee Stock*
31 *Ownership Plan that includes a majority of its employees.*

32 35427. *In addition to satisfying the requirements of Section*
33 *35426, a business with 200 or more employees shall qualify as a*
34 *California socially responsible business only if it satisfies the*
35 *following:*

36 (a) *The business satisfies at least four of the following*
37 *employment practices:*

38 (1) *It has a job retention program.*

39 (2) *It makes available to its employees who work 30 hours or*
40 *more per week the option to receive or buy into a retirement*

1 *benefits package that includes a 401(k) or a SIMPLE IRA plan and*
2 *contributes at least 2 percent of each employee's annual wages*
3 *toward the plan.*

4 *(3) It provides opportunities for its employees to develop their*
5 *skills and advance their careers through programs such as*
6 *on-the-job training, mentoring, and stipends for offsite training*
7 *and education.*

8 *(4) It allows employees to freely associate with their union of*
9 *choice.*

10 *(5) It provides total annual compensation to its highest paid*
11 *employee no more than 50 times that of its lowest paid employee.*

12 *(b) The business satisfies at least one of the following business*
13 *relationship practices:*

14 *(1) It promotes social responsibility among its strategic*
15 *business partners and vendors, monitoring their business*
16 *practices to verify their claims.*

17 *(2) It practices fair trade, if engaged in foreign trade.*

18 *(c) The business satisfies at least one of the following financial*
19 *practices:*

20 *(1) It encourages worker involvement by sharing financial*
21 *information with employees or providing for employee*
22 *participation in management decision-making.*

23 *(2) It enables employees to share in the company's profits either*
24 *through an employee profit-sharing program in which a majority*
25 *of its employees are included or through an Employee Stock*
26 *Ownership Plan that includes a majority of its employees.*

27 ~~*(a) The minimum wage has failed to keep pace with inflation,*~~
28 ~~*providing for less economic power than it did in the 1960's.*~~

29 ~~*(b) Certain economic realities exist, such as the growing*~~
30 ~~*income gap between the rich and the poor, substantial cuts in*~~
31 ~~*welfare and other aid programs, and the growth of service sector*~~
32 ~~*jobs where low wages are concentrated.*~~

33 ~~*(c) The underpayment of workers has a negative impact on*~~
34 ~~*work product, which promotes high turnover, absenteeism, and*~~
35 ~~*lackluster performance.*~~

36 ~~*(d) Workers who earn low wages tend to rely heavily on state*~~
37 ~~*assistance, to the detriment of state coffers, and to the benefit of*~~
38 ~~*employers who are not obligated to pay workers enough to support*~~
39 ~~*their families.*~~

1 ~~(e) Studies on existing living wage ordinances have found early~~
2 ~~evidence that relatively little of the extra cost in labor has been~~
3 ~~passed on to consumers or the cities with whom they contract.~~

4 ~~(f) Local governments throughout the state have adopted living~~
5 ~~wage ordinances including the Counties of Santa Clara and Los~~
6 ~~Angeles, and the Cities of San Jose, Oakland, Hayward, and Los~~
7 ~~Angeles.~~

8 ~~(g) Many private businesses who hold service contracts with~~
9 ~~the state or local governments benefit from substantial financial~~
10 ~~assistance in the form of grants, loans, bond financing, tax~~
11 ~~abatements, or other economic development subsidies.~~

12 ~~(h) The state should promote an employment environment~~
13 ~~where wages are adequate to avoid the need for social services to~~
14 ~~be provided by the state.~~

15 ~~(i) It is in the public interest to ensure that private businesses~~
16 ~~that benefit from public money pay their workers a living wage.~~

17 ~~SEC. 2. Section 157 is added to the Labor Code, to read:~~

18 ~~157. It is the intent of the Legislature that the Division of~~
19 ~~Labor Statistics and Research shall annually update its 2002 study~~
20 ~~titled "Living Wages: The Issues and the Impact." The annual~~
21 ~~update shall only be undertaken when funds become available, and~~
22 ~~shall accomplish all of the following:~~

23 ~~(a) Seek to define the term "living wage" on a statewide and~~
24 ~~local basis.~~

25 ~~(b) Examine the experience of states and localities that have~~
26 ~~adopted living wage mandates.~~

27 ~~(c) Investigate the potential economic impact of a statewide~~
28 ~~living wage mandate on employees, employers, contractors, and~~
29 ~~the government.~~

30 ~~(d) Investigate the potential economic impact of a statewide~~
31 ~~living wage mandate on local government, especially analyzing~~
32 ~~the fiscal impact on government of the costs of medical care for the~~
33 ~~uninsured, and whether mandated health insurance for employees~~
34 ~~of service contractor businesses reduces costs.~~